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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,778	03/24/2004	Jung-Chang Jong	04139-URS	7023

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EXAMINER	
MICHALSKI, SEAN M	
ART UNIT	PAPER NUMBER
3724	

NOTIFICATION DATE	DELIVERY MODE
11/20/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jason.lin@linassociatesip.com
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Office Action Summary	Application No.	Applicant(s)	
	10/809,778	JONG, JUNG-CHANG	
	Examiner	Art Unit	
	Sean M. Michalski	3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 October 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *3/24/2004*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Claim 2 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected group, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 10/02/2007.

2. Claim 2 is rejoined, since it was not a burden to examine.

Information Disclosure Statement

3. The information disclosure statement (IDS) submitted on 03/24/2004 was considered by the examiner.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Wieland et al (US 5,813,123).

Wieland discloses a trigger device comprising a switch (6, figure 1) for selectively activating power of the tool; and a brake device adapted to depress a transmission of

power of the tool, the brake device comprising a brake board (5 figure 1)), a first connection device () and a flexible band(4 figure 1), the brake board having a connection rod (35) extending through the casing and connected to the first connection device(7 figure 3), the first connection device being a link mechanism which is activated by the connection rod of the brake device(35 interacts with 7 via 37, a lever, to activate the mechanism and make it release from the braking condition), the flexible band wrapping around the output shaft and having one end fixed to the casing (see figure 1, peg near 2 which retains the flexible band) and the other end connected to the first connection device(see figure 3), the flexible band being pulled to change friction with the output shaft (see figure 1, elements 3, 30 and 33).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 3 and 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wieland, as disclosed above, and as below;

Wieland discloses the trigger having an end pivotally connected to the casing (figure 1). Wieland discloses a second connection device (26 and 27 are the second

connection device). Wieland discloses the *first (and only)* band being connected to the second connection device (it is connected clearly in figure 1, via other members- it is an operative connection).

Regarding claims 3 and 5, Wieland does not disclose the brake device (3 figure 1) having a second flexible band.

One of ordinary skill in the art, at the time of the invention would have found it obvious to use two bands instead of one, since two bands will provide double the amount of stopping power in the event that the chainsaw becomes unwieldy (either the trigger is released, or the brake bar is depressed or both). One of ordinary skill in the art, having determined that using two flexible bands is desirable, for clear and unquestionable reasons, would have only a few options for how to best effect the duplication; either have both bands be connected to the levers and actuators as seen in figure 1, or to separate the functions of the bands, and let the trigger control one band and the brake bar control the other. Both are capable of being effected by one of ordinary skill in the art and so without secondary considerations, the burden of establishing a Prima Facie case of obviousness has been met.

Aside from being complete common sense, the mere duplication of parts for increased effect is considered to be routine.

7. Claims 2, 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wieland, as in the rejection of claims 3 and 5 above and further in view of Luegger (US 6,493,948);

Regarding claims 4 and 6, Wieland further discloses that the second connection device comprises a cam which has a protrusion board (27 figure 1) and a tongue (26 figure 2) which is driven by a driving end of the trigger (figures 1 and 2) so as to rotate the cam, and allow for an initially bioased postion of the system, in opposition to the biasing forces of a selected spring (14 figure 1). Wieland sicloses retaining a spring (14 figure 1) which is used to initially bias the brake (see figure 1) is retained in a groove (14 figure 1 is clearly within a groove).

Wieland does not disclose that there is a block (instead a shaft –12 figure 1--is used); or that the block be slidably retained in a groove, and connected to the other end of the flexible band, the block being pushed by a spring received in the second groove so as to bias the block at an initial position. Wieland does not disclose this for each of the two, (obvious) flexible bands that are provided as above.

Luegger teaches a groove (figure 1) retaining a spring (3) which biases to an initial position a block (2 and 1 figure 1 are a block). The block being pushed by the lever system 8 figure 1; which is analogous to the Cam mechanism of Wieland. The block being attached to the other end of the flexible band (7). The Block is not pushed by a protrusion board, however, in the combination the levers (8) of Luegger are replaced by a cam system, so the block is pushed by association with (or direct contact, either is easily effected by one of ordinary skill) the cam (protrusion board).

One of ordinary skill in the art at the time of the invention would have been capable of replacing the cam and lever and spring components of Wieland with cam

and block and spring arrangements as in Luegger, since they are equivalent structures achieving the same result (biasing the initial position of the flexible band). The use of simple mechanisms to provide for relative movement to achieve a desired movement (initial position of the flexible band) is within the level of ordinary skill in the art, and is common. Providing for the flexible band to not touch the brake drum in a running position is a basic design feature which must inherently be provided for an operable chain saw; the selection of a cam or lever or combination, along with typical biasing elements is nothing more than selecting known parts to achieve a necessary function, and as such is not inventive.

Regarding claim 2, since in the rejection above, it was held obvious to duplicate the flexible band, providing that each lever system would operate separately under direction of the trigger or brake board respectively, using the analogous spring/block/flexible band would be obvious in both flexible bands.

It has been held that the combination of elements known in the prior art to be used in accordance with their known functions *is unpatentable as a matter of law* absent a showing that the combination has results which are *unexpectedly* advantageous over the prior art. Please see *Sakraida v. Ag Pro, Inc.* U.S. Supreme Court No. 75-110 425 US 273, 189 USPQ 449 (1976), Which states "patent[s] for combination that only unites old elements with no change in their respective functions withdraws what is already known into field of its monopoly and diminishes resources available to skillful men" and [a] patent [which] simply arranges old elements with each performing the same function it had been known to perform, although perhaps producing a more striking result than in

previous combinations...are not patentable under standards appropriate for a combination patent"; also see *Anderson's Black Rock, Inc. v. Pavement Salvage Co., Inc.* U.S. Supreme Court 396 US 57, 163 USPQ 673 (1969) which states "while the combination of old elements performed a useful function, it added nothing to the nature and quality of the radiant-heat burner already patented". Similarly here, cams, springs and blocks all are known in the art to move components relative to one another to create certain desired braking or non-braking conditions, which are known to necessarily exist as a condition of the chainsaw braking device (brake drum). As such their combination is not patentable as a matter of law.

The Supreme Court in *KSR International Co. v. Teleflex Inc. et al.* No. 04-1350, 550 U.S. _____(2007) affirmed both Sakraida and Anderson's requirement that to be patentable a combination needed to provide some synergistic effect. See Slip op. at 13 lines 3-19. Using known elements for their known functions is *as a matter of law not patentable*, since it removes resources available to skillful men, contrary to U.S. Const., Art. I §8, cl.8. which provides patent monopolies to promote the progress of useful arts. See Slip op. *KSR* at 24 lines 5-7.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean M. Michalski whose telephone number is 571-272-6752. The examiner can normally be reached on M-F 7:30AM - 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SMM

KENNETH E. PETERSON
PRIMARY EXAMINER